

111. The unfairness of attempting to make a fair evaluation of a licensee's performance is amply shown by the record in the instant case. While the Station operated at far more than the minimum number of hours per week from the time it went on the air (full time within a week after going on the air, as opposed to the 12 hours required by the rules, See 47 C.F.R. § 73.1740(a)(2)(i), (Fdgs. ¶ 20), it had not completed constructing a studio suitable for local program production when it was ready to begin broadcast operation, and, during the short License Term, did not produce any local programming (Fdgs. ¶ 44). Likewise, as is the case with every other business, WHSG-TV's staff was learning its job responsibilities on the job and, inevitably, mistakes occurred. The Station Manager, for example, was a promoted Master Control operator who did not know for the first five weeks of the License Term that part of his responsibilities included an obligation to ascertain the communities problems and needs (Fdgs. ¶ 21, 23) and placed a Quarterly Report from TBN's California station in WHSG-TV's public file without understanding what the Commission's rules required (Fdgs. ¶ 21, 23).

112. Similarly, the Station Manager didn't begin the interviewing of community leaders to determine the problems, needs and interests of the community, even though this was standard TBN procedure, for months after the Station went on the air (Fdgs. ¶ 22). The short License Term and the inevitable stumblings and mistakes of a new Station management make an evaluation of WHSG-TV's short record according to the standard comparative template particularly unfair. Even so, WHSG-TV demonstrates a note-worthy service to the public and is worthy of a renewal expectancy.

(a) Criterion 1: The licensee's efforts to ascertain the needs, problems and interests of the community

113. The Review Board has held that "[p]reeminent in our survey of the licensee's performance is its efforts to periodically take the pulse of the community." Metroplex Communications, Inc. (WHYI-FM), *supra*, 67 Rad. Reg. 2d (P&F) at 190. The evidence in this case shows that WHSG-TV began uncertainly during the first five weeks of operation (Fdgs. ¶ 20), began less rudimentary ascertainment efforts using newspaper accounts during the first full calendar quarter of operation (Fdgs. ¶ 22), and, by the second full calendar quarter of Station operation had evolved an elaborate and systematic method for determining the problems, needs and interests of the service area (Fdgs. ¶ 21, 23). During the License Term the primary responsibility for ascertainment efforts rested with the Station Manager (Fdgs. ¶ 21, 23), or by an employee under his direct supervision (Fdgs. ¶ 21, 23). By the second full calendar quarter of Station operation that ascertainment effort included a systematic review of the problems and needs mentioned in a local newspaper (Fdgs. ¶ 22) and interviews with 25 community leaders by telephone each calendar quarter to determine their views of the community's problems, needs and interests (Fdgs. ¶ 25). By the third quarter the number of community leader interviews had increased to 75 (*Id.*). While the number of interviews with community leaders decreased to 25 during the last calendar quarter of the License Term, comments from callers to the Station were added to the ascertainment process (Fdgs. ¶ 25).

114. Each community leader interview was tallied on a standard interview sheet, and the interviewer, who was the Station Manager or an employee under his

direct supervision, were required to include a representative of 19 different categories of organizations or interests which must be represented in the interviews during each calendar quarter (Fdgs. ¶¶ 21, 23). In addition, interviewers also ensured that a sample of all races and ethnic groups in the service area were interviewed each calendar quarter as well (Fdgs. ¶ 24). A running count of the problems mentioned by all sources was kept, including articles in the newspaper; at least 25 (but up to 75) interviews each quarter with community leaders (Fdgs. ¶ 25); and, during the last calendar quarter of the License Term, problems mentioned by callers to the Station (Fdgs. ¶ 25).

115. The Station Manager used this information to prepare two reports each quarter, one report, called the "Preliminary Report," was compiled after the first month of each calendar quarter, and identified the top five problems and needs of the community based on the ascertainment information already compiled (Fdgs. ¶¶ 26, 27). This report provided a snapshot of what problems are most important to the community. A second and final report was prepared immediately after the conclusion of the calendar quarter, at which time the Station Manager compiled another tally, or count, of the problems mentioned by all sources (Fdgs. ¶¶ 26, 27). The top five problems, determined by the number of mentions from the sources consulted was sent (along with the community leader ascertainment sheets) to the Trinity Public Affairs Department (Fdgs. ¶¶ 26, 27). Within a few days the Station received a Quarterly Report from Trinity prepared for KTBN-TV, Santa Ana, which listed a number of programs broadcast during the preceding quarter responsive to the problems (Fdgs. ¶¶ 26, 27). On occasion the list received from Trinity did not include any problems

responsive to one of the WHSG-TV service area problems, and, in that event, Mr. Jackson would call the Trinity Public Affairs Department and ask if TBN broadcast any programs responsive to that problem (Fdgs. ¶¶ 26, 27). TBN would then send back information on the programs responsive to that particular problem (Fdgs. ¶¶ 26, 27). On one occasion, during the first calendar quarter of 1992, "State and Federal Government" was identified as the second most important problem in the WHSG-TV service area, and TBN informed Mr. Jackson that it had not broadcast a program responsive to that need and the problem was not listed on the Station's Quarterly Report (Fdgs. ¶ 28). With that exception, however, the information from Trinity concerning the programs broadcast responsive to the problems ascertained in the WHSG-TV service area was combined and the resulting Quarterly Report would be placed in the Station's public file by the 10th day after the end of each calendar quarter (Fdgs. ¶¶ 26, 27). The Quarterly Reports identified the most important problems and the programs, including the time, a description of the program, the date of broadcast, and the duration of the segment, treating the problem (Fdgs. ¶¶ 26, 27).

116. By the second full calendar quarter of station operation WHSG-TV's method of ascertaining the community's needs insured diversity, in that a diversity of views were always represented in the survey by virtue of the varied sources consulted--articles in newspapers, community leader interviews, and, by the last quarter of the License Term, comments by callers to the Station--and representative, by virtue of the 19 different categories of organizations and interests and the fair representation of racial and ethnic groups participating in its community leader interviews (Fdgs. ¶ 25).

117. WHSG-TV's ascertainment efforts were weakened by two factors. One factor was WHSG-TV's failure to interview any community leaders identified with the Station's community of license, Monroe, or the county in which Monroe is located (Fds. ¶¶ 21, 23). Nor did TBN consult a newspaper published in Monroe as part of its ascertainment (Id.). Likewise, TBN's ascertainment efforts, as might be expected of a neophyte staff operating a new station, evolved with time, with no ascertainment done at all during the first five weeks of station operation, and a less elaborate ascertainment relying only on newspapers occurring during the next calendar quarter. The effect of the failure to include specific ascertainment efforts in the Station's community of license is mitigated by the effectiveness of the Station's ascertainment efforts within the entire service area, and the fact that there is no record evidence that shows that either Monroe or Walton county experienced problems or needs which were appreciably, or even marginally, different from those experienced by other communities within the service area whose problems and needs WHSG-TV assiduously ascertained. The Station's failure to do any ascertainment during the first five weeks of Station operation, and less elaborate ascertainment during the Station's first calendar quarter are explained by the Station staff's greenness and their inevitable and necessary concentration on inaugurating the technical aspects of station operation. Moreover, whatever weaknesses existed in the Station's ascertainment were soon cured.

118. Even with the cited weaknesses and inconsistencies, however, there can be no question of the seriousness or effectiveness of TBN's "...efforts to periodically take

the pulse of the community." Metroplex Communications, Inc. (WHYI-FM), *supra*, 67 Rad. Reg. 2d (P&F) at 190.

(b) Criterion 2: The licensee's programming responsive to those ascertained needs

119. The Commission has stressed that "the adduction of community issues is merely the preliminary step; the associated criterion is whether, and how, the licensee translated its ascertainment into on-air performance." Fox Television Stations, Inc., *supra*, 72 Rad. Reg. 2d (P&F) at 304. There must be some "nexus between issue identification and responsive programming" *Id.* Given the fact that WHSG-TV was unable to produce any local programming because its local studio wasn't completed (Fdgs. ¶ 44), this record shows that WHSG-TV had a system for ensuring both that its programming was responsive to WHSG-TV service area issues, and that the Station did, in fact, broadcast substantial amounts of issue-responsive programming targeted to treat the most important issues in the community.

120. With respect to local programming, paid programming broadcast on the network and locally during the truncated License Term, such as In Touch, the Earl Paulk Show, and Changing Your World, while primarily religious in nature, still provided substantial comment on issues which were important to the WHSG-TV service area, including: AIDS; alcohol and drug abuse; and race relations (Fdgs. ¶¶ 72, 73).

121. The Trinity network had also evolved a system for ensuring that the network programming broadcast on Trinity would be responsive to the local needs of the WHSG-TV service area (Fdgs. ¶¶ 26, 27). As noted above, the community leader interview sheets and both preliminary and final lists of problems for WHSG-TV were

sent to Trinity's Public Affairs Department (Fdgs. ¶¶ 26, 27). Throughout the license term, Trinity had a full-time employee, Lindee Connolly, who was responsible for reviewing the preliminary and final lists of problems from WHSG-TV and other affiliated stations, and scheduling guests and choosing topics for discussion on much of the network's nonentertainment programming, such as Joy, Back on Course, A Date With Dale, Doctor and the Word, and Calling Dr. Whitaker (Fdgs. ¶¶ 39-40). Ms. Connolly also reviewed and approved the topics chosen for discussion and the scheduled guests for A Call To Action and Treasures Out of Darkness (Fdgs. ¶¶ 41, 42). Ms. Connolly was also responsible for scheduling guests to respond to the issues ascertained by WHSG-TV and other TBN affiliated stations (Fdgs. ¶ 121). Guests were instructed to discuss an issue from both a local aspect, if that were appropriate, and a national viewpoint (Fdgs. ¶ 33). Ms. Connolly maintained a current list of the problems for each service area, informed TBN employees taking program continuity of the problems in each community to which they were to be sensitive in their review of the programming, and kept a program grid in which she wrote the programs broadcast which were responsive to the problems ascertained by each community (Fdgs. ¶ 32). Each calendar quarter Ms. Connolly ensured that at least one guest was scheduled to treat each problem ascertained by WHSG-TV.<sup>33/</sup> (Id.)

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<sup>33/</sup>. At one point the TBN Public Affairs Department reported to Mr. Jackson that there were no programs broadcast which were responsive to the problem of "State and Local Government." However, the record does not reveal how thorough or exhaustive was the purported "search" by the TBN Public Affairs Department, especially since TBN had broadcast programming responsive to that particular issue during one of the preceding quarters in the License Term. (TBN Ex. 32, Tab B, p. 36)

122. The record evidence shows that the steps which TBN undertook to ensure that its ascertainment of community needs resulted in the production of issue responsive programming and did, in fact, result in the broadcast of issue-responsive programming that consistently treated the WHSG-TV service area's needs and interests. For example, WHSG-TV broadcast Feedback throughout most of the license term at least twice weekly, at least once during the morning hours when people were likely to be watching (Fdgs. ¶ 61). The program was always a half-hour long program initially broadcast from 11:30 a.m. and rebroadcast at 5:00 a.m. on Wednesdays and 8:30 a.m. on Saturdays each. (Id.) The show was a panel show, moderated for most of the license term by an African-American host, Harold Ray, which, although designed to primarily respond to the needs of Miami, consistently included discussions of issues or problems ascertained in the WHSG-TV service area (Fdgs. ¶ 61).

123. During the license term Feedback treated significant WHSG-TV service area issues, including: pollution and the environment; health; education/schools; crime; drug and alcohol abuse and addiction; and homelessness (Fdgs. ¶ 61). Moreover, while Feedback was a network program, the discussions on the program were often a model of how a network program may be responsive to a local need, as was the case of the Feedback program broadcast on August 15, 1991 which featured an extensive discussion of the factors that lead to homelessness, and the problems faced by the homeless, particularly homeless families (Fdgs. ¶ 62).

124. Another network program, Joy, broadcast daily (Monday-Friday) at 9:30 a. m. during the License Term, also treated ascertained service area needs on a regular



basis, including: crime; alcohol and drug addiction; health and nutrition; traffic and transportation; education and the schools; and, homelessness (Fdgs. ¶ 63). Again, the Joy program featuring a discussion of good freeway manners and how to relieve stress caused by freeway driving is another example of serving local needs with non-local programming (Fdgs. ¶ 64).

125. Likewise, the network Praise the Lord program, which was broadcast during prime time in the evening, often treated WHSG-TV service area problems and needs, such as health care and alcohol and drug addiction; crime; and, education and schools (Fdgs. ¶ 65).

126. Other network programs broadcast by WHSG-TV during the License Term which treated service area problems and needs included: Calling Dr. Whitaker, which often dealt with health and health care issues such as good nutrition and dieting (Fdgs. ¶ 66); and, A Call To Action which discussed issues such as and education and schools with programs such as a panel discussion about the problems of contemporary modern education (Fdgs. ¶ 67). Another network program, Treasures Out of Darkness, consistently dealt with issues such as alcohol and drug dependency, crime and education (Fdgs. ¶ 68). The non-TBN produced 700 Club consistently featured discussion segments treating issues such as drug and alcohol abuse, health care, and education and the schools (Fdgs. ¶ 69). The issue of health, the 700 Club discussion of nutrition and fast food seems particularly timely. (Id.) The Doctor and the Word regularly provided helpful information on health issues such as aging and nutrition

(Fdgs. ¶ 70). A Date With Dale often discussed the issue of alcohol and drug addiction (Fdgs. ¶ 71).

127. WHSG-TV also broadcast large amounts of programming designed to respond to the educational and informational needs of those whom the Commission and Congress have often determined are ignored by television licensee--the children in the audience. Since 1960, children's programs have been listed as one of the 14 "major elements usually necessary to meet the public interest, needs and desires of the community." En Banc Programming Inquiry, 44 FCC 2303, 2315 (1960). This special obligation to treat the needs of the Station's young viewers was restated by the Commission as follows:

Because of their immaturity and their special needs, children require programming designed specifically for them ...

Children's Television Report and Policy Statement, 50 F.C.C.2d 1, 31 Rad. Reg. (P&F) 2d 1228, 1234 (1974). Historically the Commission has reviewed a licensee's record to determine if it has fulfilled its service obligations to this vulnerable and often ignored segment of its audience. "Station's license renewal applications should reflect a reasonable amount of programming which is designed to educate and inform [children] ... not simply to entertain." Id. at 1236. The Commission also has had occasion to comment on the lack of programming provided for younger, usually preschool children. "A licensee should also provide some programming for pre-school as well as school age children." Id. This historic obligation has now been written into law with the passage of the Children's Television Act of 1990 (hereinafter referred to as the "CTA"). 47 U.S.C. §§ 303(a) and 303(b). Congress, dissatisfied with the level of licensee service to

children, passed the CTA for the express purpose of improving both the quantity and quality of programming available to children. Moreover, to ensure that the public could monitor a licensee's performance in this regard, the Commission mandated that licensees keep sufficient records describing the informational and educational programming that the licensee provides. See, Report and Order, In the Matter of Policies and Rules Concerning Children's Television Programming and Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations, MM Docket Nos. 90-570 and 83-670, 6 FCC Rcd 2111, 68 Rad. Reg. 2d (P&F) 1615, 1627 (1991). The record shows, however, that TBN anticipated Commission requirements by including a description of WHSG-TV's children's programming in the Quarterly Reports prepared during the License Term, well before such reports were required by rule. Beginning with renewals filed immediately after the WHSG-TV renewal application was filed, the Commission is requiring licensee's to satisfy stringent public interest standards concerning the broadcast of children's programming. The record evidence shows, however, that WHSG-TV has provided the children in its service area with a quantity and quality of educational and informational programming for children of a wide age-range. During the License Term WHSG-TV never broadcast less than seven hours per week of educational and informational children's programming, and not less than five hours per week broadcast on Saturday morning when children were in the audience (Fdgs. ¶ 45). The quantity of programming broadcast on WHSG-TV was not only large in terms of the amount of hours of programming broadcast, it was also impressive in

terms of the number of different programs broadcast which were specifically designed to meet the educational and informational needs of children. During the License Term WHSG-TV broadcast, each week, no less than 13 programs specifically designed to meet the educational and instructional needs of children as mandated by the CTA. Moreover, each of the children's programs broadcast by WHSG-TV were program length--at least a half-hour in length (Fdgs. ¶¶ 45-59).

128. In addition, in the CTA Congress showed its concern for the over-commercialization of children's programming by mandating strict limits on the amount of advertising in children's programming. 47 U.S.C. § 303(a). This concern led to the adoption of strict rules limiting commercial matter and the imposition of forfeitures and fines for violating commercialization rules. 47 C.F.R. § 73.670. On the other hand, despite the large amount and number of children's programming broadcast on WHSG-TV, not a single minute of commercial matter was broadcast during children's programming (Fdgs. ¶ 46).

129. Not only did WHSG-TV provide a large quantity--in both amount of hours of programming and in the numbers of programs broadcast--of children's programming, it broadcast programming specifically designed for children and age-specific--directed at a particular age range of children from pre-school to teenagers. Rather than ignoring preschool children, which was a concern expressed in the Commission's Children's Television Report and Policy Statement, *supra*, 31 Rad. Reg. (P&F) 2d at 1236, five different programs were designed to appeal to pre-schoolers through early school age children, including: Davey and Goliath; Superbook; Filling

Station; Flying House; and, Quigley's Village (Fdgs. ¶ 46). Two programs, The Gospel Bill Show and Joy Junction were designed to specifically appeal to the middle school age group. (Id.) Finally, no less than six programs: John Jacobs and the Power Team (Fdgs. ¶ 50); Circle Square (Fdgs. ¶ 51); Real Videos (Fdgs. ¶ 55); Dallas Holm (Fdgs. ¶ 56); Meadowlark Lemon (Fdgs. ¶ 57); and, Why Wait (Fdgs. ¶ 59) were especially designed to appeal to pre-teens and teenagers.

130. Most of WHSG-TV's children's programming was strictly educational and informational, and all had a central theme of conveying religious and moral values to children and teaching them lessons such as: solving problems peacefully without fighting (Circle Square, ¶ 51); to tell the truth (Gospel Bill, ¶ 49); and, to respect their parents (Davey and Goliath, ¶ 48). These shows also taught children about animals (Gospel Bill, ¶ 49), differences in culture and language (Circle Square, ¶ 51), the culture and physical geography of the middle east (Flying House, ¶ 52), and the medical, social and religious reasons for sexual abstinence outside of marriage (Why Wait, ¶ 59).

(c) Criterion 3: The licensee's reputation in the community for serving the needs, problems and interests of the community

131. While "[b]oth the court and the Commission have considered relevant any evidence of a station's reputation in the community..." Metroplex Communications, Inc. (WHYI-FM), supra, 67 Rad. Reg. (P&F) 2d at 192, the record is bare of any evidence concerning WHSG-TV's reputation in the community, a result which is hardly surprising given the truncated length of the License Term and the fact that the License Term covered the initial year of station operation.

(d) **Criterion 4: The licensee's record of compliance with the Communications Act and FCC Rules and Regulations**

132. There is no record evidence of any violations of FCC Rules or Regulations by TBN in connection with the operation of WHSG-TV. Qualifying issues concerning the conduct of TBN and certain of its principals are being tried in connection with the renewal application of WHFT-TV, Miami, Florida (MM Dkt. No. 93-75). The impact, if any, of any findings concerning the conduct of TBN and its principals on the renewal of WHSG-TV's license renewal must await the Presiding Officer's decision in that case. Hearing Designation Order, DA 93-602, n. 1, released June 14, 1993.<sup>34/</sup>

(e) **Criterion 5: The presence or absence of any special effort at community outreach or towards providing a forum for local self expression**

133. There is no record evidence of any special efforts at community outreach, again because TBN was disadvantaged by the shortened License Term and the fact that the term coincided with the initiation of broadcast service.

**2) Comparative Summary**

134. As noted above, TBN's stewardship of WHSG-TV has resulted in a spotless record of compliance with the rules and regulations of the FCC during the license term. The shortness of the License Term and the fact that the License Term included the initial months of station operation, and the lack of a studio suitable for local production, resulted in a dearth of evidence with respect to criteria 3 and 5. The record shows that WHSG-TV made systematic and consistent efforts to determine the

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<sup>34/</sup>. Glendale's basic qualifications are also at issue in the Miami proceeding and the Presiding Officer's decision in that case will also have an impact on whether Glendale is entitled to participate in a comparative evaluation with TBN here. See ¶¶ 3-4, supra.

problems, needs and interests of the station's service area, WHSG-TV's ascertainment of community needs was at least as elaborate as the system used by the licensee which the Commission viewed favorably in Seattle Public Schools, 4 FCC Rcd 625, 65 Rad. Reg. (P&F) 2d 1621 (Rev. Bd. 1989) Moreover, TBN's system of preliminary and quarterly reports providing lists of community problems and needs, and Mrs. Connolly's use of these reports to schedule guests and topics for discussion on TBN's network produced programming, ensured that there was a direct link between the determination of the community's problems and needs and the production of programming responsive to those needs. See, e.g., Seattle Public Schools, *supra*, 65 Rad. Reg. (P&F) 2d at 1637. Just as the Commission found in Fox Television, Inc., *supra*, 72 Rad. Reg. (P&F) 2d at 303, WHSG-TV's ascertainment process "...were incorporated in the Station's planning process on an ongoing basis."

135. The record also shows that WHSG-TV broadcast programming responsive to the community's perceived needs, and that it has done so on a consistent and systematic basis. With one exception, "state and local government" during the last calendar quarter of the License Term, WHSG-TV provided responsive programming to the needs which its ascertainment uncovered. The record shows that Joy, Praise the Lord, Treasures Out of Darkness, the 700 Club, Feedback, Calling Dr. Whitaker, The Doctor and the Word, A Call To Action, and A Date With Dale all regularly treated the problems, needs and interests of the WHSG-TV service area. Locally produced programs such as the Earl Paulk Show, In Touch, and Changing Your World were also

broadcast on WHSG-TV and provided information concerning local outreach ministries and comment on issues of local importance.

136. TBN's record with respect to its broadcast of issue responsive programming is weakened somewhat by the Station's failure to provide any formal ascertainment in Monroe or Walton county area, and by the fact that almost all of the issue responsive programming broadcast during the License Term was not locally produced. *cf.*, Radio WABZ, Inc., 90 FCC 2d 818, 51 Rad. Reg. (P&F) 2d 1507, 1525-26 (1982); *aff'd sub nom*, Victor Broadcasting, Inc., 722 F.2d 756 (D.C. Cir. 1983) (renewal licensee program record praised for locally produced nonentertainment programming).

137. Regardless of the shortened License Term at the beginning of the station operation, any perceived weakness in TBN's ascertainment or issue responsive programming is more than compensated, however, by WHSG-TV's record of responding to the needs of the children in its audience. Service to that audience has long constituted an important aspect of a renewal applicant's service obligation. Children's Television Report and Policy Statement, *supra*, 31 Rad. Reg. (P&F) 2d at 1236. That service obligation has been given additional importance by Congress' passage of the CTA. Congress has now mandated that a licensee's record of service to children be closely evaluated in the context of its renewal application and TBN's record of service to the WHSG-TV service area's children is particularly praise-worthy. TBN broadcast a large quantity of children's programming--seven hours per week of programming and 13 separate programs--almost all broadcast during hours when children were likely to be



in the audience watching. Not only was the programming free of excessive commercial matter, as mandated by Congress, it was free of any commercial matter whatsoever. It should be noted, here, that the production and broadcast of so much public interest programming on a free or sustaining basis has long been the hallmark of an exemplary record of licensee performance.

138. All TBN children's programming was of program length, and all was specifically designed to meet the educational and informational needs of children. Each program's primary purpose was to "educate and inform, not simply to entertain." Children's Television Report and Order, *supra*, 31 Rad. Reg. (P&F) 2d at 1236. Programming was also designed to meet the needs of specific age and interest groups of children--even the oft neglected preschoolers. The amount of children's programming broadcast easily matched the amount of children's programming which impressed the Commission in Fox Television, Inc., *supra*, 72 Rad. Reg. (P&F) 2d at 305.

139. Accordingly, given the short term and the paucity of some record factors due to the License Term's occurrence at the commencement of WHSG-TV's broadcast service, WHSG-TV's record of broadcasting substantial amounts of issue-responsive programming coupled with its extraordinary level of service to children, under the unique circumstances applicable to WHSG-TV's License Term, warrant a finding that WHSG-TV's record was, as a whole, "substantial, i.e., sound, favorable and substantially above a level of mediocre service which ought must minimally warrant renewal." Seattle Public Schools, *supra*, 65 Rad. Reg. 2d (P&F) at 1641, quoting

Central Florida Enterprises, 683 F.2d 503, 508 (D.C. Cir. 1982), *cert. denied* 460 U.S. 1984 (1984). Trinity has earned a renewal expectancy for its operation of WHSG-TV.

### **C. Overall Comparative Evaluation**

140. The overall comparative evaluation between TBN and Glendale turns on the following factors: WHSG's renewal expectancy earned for substantial service during the License Term versus Glendale's diversification advantage. It is well established that "because of the clear detriment involved in depriving the public of a proven service," the Commission gives greater weight to renewal expectancy than to the purely structural factors of diversification and integration. Radio Station WABZ, Inc., 90 FCC 2d 818, 846 (1982). Of greatest weight here, therefore, is the renewal expectancy earned by WHSG. While Glendale has a diversification advantage, that cannot overcome WHSG's renewal expectancy.<sup>35/</sup>

### **IV. ULTIMATE CONCLUSION**

141. TBN has provided a worthy service to the WHSG-TV service area, and is entitled to a renewal expectancy. Glendale, however, is not entitled to a waiver of television spacing rule (Rule 73.610), and its application is thus technically disqualified. Even if Glendale were awarded a waiver of the spacing rules, based on TBN's renewal expectancy, TBN is dispositively superior to Glendale on comparative grounds.

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<sup>35/</sup> Cowles Broadcasting, Inc., 86 F.C.C.2d 993, 1008-09, 1017 (1981), *aff'd sub nom. Central Florida Enterprises, Inc. v. FCC*, 683 F.2d 503 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 1774 (1983) (licensee's renewal expectancy outweighs challenger's clear diversification preference based on licensee's numerous other broadcast and newspaper interests); United Broadcasting Company, Inc. (WOOK(FM)), 100 F.C.C.2d 1574, 1588-90 (1985) (licensee's renewal expectancy outweighs challenger's substantial diversification preference based on licensee's ownership or control of ten other broadcast stations).

142. For the foregoing reasons, TBN's application for renewal of license of WHSG-TV should be granted, and Glendale's application for a construction permit should be denied.

Respectfully submitted,

**TRINITY CHRISTIAN CENTER OF  
SANTA ANA, INC., D/B/A TRINITY  
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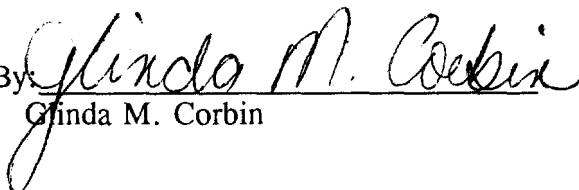
**CERTIFICATE OF SERVICE**

I, Glinda M. Corbin, a paralegal in the law offices of Colby M. May, hereby certify that  
I have caused to be hand delivered this 7th day of October 1994, a copy of the foregoing  
**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW** to the following:

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